

a fault. It makes a tragic mistake by erring on the side of slow growth, denying Americans a more dynamic economy, diminishing living standards, and cutting off capital to emerging markets.

Prof. James Galbraith builds on this point when he argues:

In fact NAIRUvians—

I like that word.

NAIRUvians have never successfully predicted where the barrier would be hit.

That is a minimum level of unemployment.

The estimated NAIRU tracks actual unemployment.

Professor Galbraith says they do not know where that barrier is, that minimum level of unemployment. He says:

[Moreover] the estimated NAIRU tracks actual unemployment. When unemployment increases, conservative economists raise their NAIRU. When it decreases, they predict inflation, and if inflation doesn't occur, they cut their estimated NAIRU. There exists a long and not-very-reputable literature of such estimates.

For example, notable NAIRU supporter Paul Krugman:

Places present estimates of the NAIRU from about 5 to about 6.3 percent, with most estimates clustered between 5.5 and 6 percent.

Mr. President, I understand that the Senator from Florida wanted to get some housekeeping items done. I will yield to him whatever time he may consume for that.

The PRESIDING OFFICER (Mr. KYL). The Senator from Florida.

Mr. MACK. Mr. President, I inquire of the Senator from Iowa how long he intends to go beyond this point. The reason I inquire is because I do not want to inconvenience the Chair as well.

Mr. HARKIN. In the interest of comity—I understand that we have problems after 3:45. I will cut my comments short. I just want to finish one thing on NAIRU. It is now 3:40. I know that we have a problem here. I want to be accommodating. So I will just wrap up my remarks very shortly. In like 60 seconds I will yield to the Senator.

Mr. MACK. I thank the Senator.

Mr. HARKIN. Mr. President, I wanted to discuss NAIRU because I think it is very important, because I think it is acting as a straitjacket. I think that Mr. Greenspan and the economists at the Fed are looking at NAIRU and abusing it. And in so doing, they are abusing what I believe to be the capacity of our economy to grow. I believe there is an equal body of evidence and data to suggest that we can reduce unemployment and at the same time reduce inflation.

I believe it is worth the relatively small risk to go ahead and get these interest rates down, stimulate the economy. Let us have some growth. Why is it that we have to accept growth of 2 to 2.5 percent? That is like saying, "America, a C-average is fine." I believe America can do a B-plus, and A. We can do it without inflation. That is why I want to talk about NAIRU.

I will continue next Thursday on the Greenspan nomination. I will use my time at that time to finish my comments on NAIRU. I thank the Chair and I thank the Senator from Florida. I yield the floor.

The PRESIDING OFFICER. The Chair appreciates the courtesies of the Senator from Iowa.

The Senator from Florida.

Mr. MACK. I thank you, Mr. President. I too want to thank the Senator from Iowa for his consideration.

#### APPOINTMENT OF CONFEREES— H.R. 2977

Mr. MACK. Mr. President, I understand that the Chair has been authorized to appoint conferees to H.R. 2977.

The PRESIDING OFFICER appointed Mr. STEVENS, Mr. COHEN, Mr. GRASSLEY, Mr. GLENN, and Mr. LEVIN conferees on the part of the Senate.

#### SINGLE AUDIT ACT AMENDMENTS OF 1996

Mr. MACK. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 401, S. 1579.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1579) to streamline and improve the effectiveness of chapter 75 of title 31, United States Code (commonly referred to as the "Single Audit Act").

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1579

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; PURPOSES.

(a) SHORT TITLE.—This Act may be cited as the "Single Audit Act Amendments of 1996".

(b) PURPOSES.—The purposes of this Act are to—

(1) promote sound financial management, including effective internal controls, with respect to Federal awards administered by non-Federal entities;

(2) establish uniform requirements for audits of Federal awards administered by non-Federal entities;

(3) promote the efficient and effective use of audit resources;

(4) reduce burdens on State and local governments, Indian tribes, and nonprofit organizations; and

(5) ensure that Federal departments and agencies, to the maximum extent practicable, rely upon and use audit work done pursuant to chapter 75 of title 31, United States Code (as amended by this Act).

#### SEC. 2. AMENDMENT TO TITLE 31, UNITED STATES CODE.

Chapter 75 of title 31, United States Code, is amended to read as follows:

#### "CHAPTER 75—REQUIREMENTS FOR SINGLE AUDITS

"Sec.

"7501. Definitions.

"7502. Audit requirements; exemptions.

"7503. Relation to other audit requirements.

"7504. Federal agency responsibilities and relations with non-Federal entities.

"7505. Regulations.

"7506. Monitoring responsibilities of the Comptroller General.

"7507. Effective date.

#### "§ 7501. Definitions

"(a) As used in this chapter, the term—

"(1) 'Comptroller General' means the Comptroller General of the United States;

"(2) 'Director' means the Director of the Office of Management and Budget;

"(3) 'Federal agency' has the same meaning as the term 'agency' in section 551(1) of title 5;

"(4) 'Federal awards' means Federal financial assistance and Federal cost-reimbursement contracts that non-Federal entities receive directly from Federal awarding agencies or indirectly from pass-through entities;

"(5) 'Federal financial assistance' means assistance that non-Federal entities receive or administer in the form of grants, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, [donated surplus property,] food commodities, direct appropriations, or other assistance, but does not include amounts received as reimbursement for services rendered to individuals in accordance with guidance issued by the Director;

"(6) 'Federal program' means all Federal awards to a non-Federal entity assigned a single number in the Catalog of Federal Domestic Assistance or encompassed in a group of numbers or other category as defined by the Director;

"(7) 'generally accepted government auditing standards' means the government auditing standards issued by the Comptroller General;

"(8) 'independent auditor' means—

"(A) an external State or local government auditor who meets the independence standards included in generally accepted government auditing standards; or

"(B) a public accountant who meets such independence standards;

"(9) 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

"(10) 'internal controls' means a process, effected by an entity's management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

"(A) Effectiveness and efficiency of operations.

"(B) Reliability of financial reporting.

"(C) Compliance with applicable laws and regulations;

"(11) 'local government' means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, any other instrumentality of local government and, in accordance with guidelines issued by the Director, a group of local governments;

"(12) 'major program' means a Federal program identified in accordance with risk-based criteria prescribed by the Director

under this chapter, subject to the limitations described under subsection (b);

"(13) 'non-Federal entity' means a State, local government, or nonprofit organization;

"(14) 'nonprofit organization' means any corporation, trust, association, cooperative, or other organization that—

"(A) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

"(B) is not organized primarily for profit; and

"(C) uses net proceeds to maintain, improve, or expand the operations of the organization;

"(15) 'pass-through entity' means a non-Federal entity that provides Federal awards to a subrecipient to carry out a Federal program;

"(16) 'program-specific audit' means an audit of one Federal program;

"(17) 'recipient' means a non-Federal entity that receives awards directly from a Federal agency to carry out a Federal program;

"(18) 'single audit' means an audit, as described under section 7502(d), of a non-Federal entity that includes the entity's financial statements and Federal awards;

"(19) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian tribe; and

"(20) 'subrecipient' means a non-Federal entity that receives Federal awards through another non-Federal entity to carry out a Federal program, but does not include an individual who receives financial assistance through such awards.

"(b) In prescribing risk-based program selection criteria for major programs, the Director shall not require more programs to be identified as major for a particular non-Federal entity, except as prescribed under subsection (c) or as provided under subsection (d), than would be identified if the major programs were defined as any program for which total expenditures of Federal awards by the non-Federal entity during the applicable year exceed—

"(1) the larger of \$30,000,000 or 0.15 percent of the non-Federal entity's total Federal expenditures, in the case of a non-Federal entity for which such total expenditures for all programs exceed \$10,000,000,000;

"(2) the larger of \$3,000,000, or 0.30 percent of the non-Federal entity's total Federal expenditures, in the case of a non-Federal entity for which such total expenditures for all programs exceed \$100,000,000 but are less than or equal to \$10,000,000,000; or

"(3) the larger of \$300,000, or 3 percent of such total Federal expenditures for all programs, in the case of a non-Federal entity for which such total expenditures for all programs equal or exceed \$300,000 but are less than or equal to \$100,000,000.

"(c) When the total expenditures of a non-Federal entity's major programs are less than 50 percent of the non-Federal entity's total expenditures of all Federal awards (or such lower percentage as specified by the Director), the auditor shall select and test additional programs as major programs as necessary to achieve audit coverage of at least 50 percent of Federal expenditures by the non-Federal entity (or such lower percentage as specified by the Director), in accordance with guidance issued by the Director.

"(d) Loan or loan guarantee programs, as specified by the Director, shall not be subject to the application of subsection (b).

#### **"§ 7502. Audit requirements; exemptions**

"(a)(1)(A) Each non-Federal entity that expends a total amount of Federal awards equal to or in excess of \$300,000 or such other amount specified by the Director under subsection (a)(3) in any fiscal year of such non-Federal entity shall have either a single audit or a program-specific audit made for such fiscal year in accordance with the requirements of this chapter.

"(B) Each such non-Federal entity that expends Federal awards under more than one Federal program shall undergo a single audit in accordance with the requirements of subsections (b) through (i) of this section and guidance issued by the Director under section 7505.

"(C) Each such non-Federal entity that expends awards under only one Federal program and is not subject to laws, regulations, or Federal award agreements that require a financial statement audit of the non-Federal entity, may elect to have a program-specific audit conducted in accordance with applicable provisions of this section and guidance issued by the Director under section 7505.

"(2)(A) Each non-Federal entity that expends a total amount of Federal awards of less than \$300,000 or such other amount specified by the Director under subsection (a)(3) in any fiscal year of such entity, shall be exempt for such fiscal year from compliance with—

"(i) the audit requirements of this chapter; and

"(ii) any applicable requirements concerning financial audits contained in Federal statutes and regulations governing programs under which such Federal awards are provided to that non-Federal entity.

"(B) The provisions of subparagraph (A)(ii) of this paragraph shall not exempt a non-Federal entity from compliance with any provision of a Federal statute or regulation that requires such non-Federal entity to maintain records concerning Federal awards provided to such non-Federal entity or that permits a Federal agency, pass-through entity, or the Comptroller General access to such records.

"(3) Every 2 years, the Director shall review the amount for requiring audits prescribed under paragraph (1)(A) and may adjust such dollar amount consistent with the purposes of this chapter, provided the Director does not make such adjustments below \$300,000.

"(b)(1) Except as provided in paragraphs (2) and (3), audits conducted pursuant to this chapter shall be conducted annually.

"(2) A State or local government that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits pursuant to this chapter biennially. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period.

"(3) Any nonprofit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its audits pursuant to this chapter biennially. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period.

"(c) Each audit conducted pursuant to subsection (a) shall be conducted by an independent auditor in accordance with generally accepted government auditing standards, except that, for the purposes of this chapter, performance audits shall not be required except as authorized by the Director.

"(d) Each single audit conducted pursuant to subsection (a) for any fiscal year shall—

"(1) cover the operations of the entire non-Federal entity; or

"(2) at the option of such non-Federal entity such audit shall include a series of audits that cover departments, agencies, and other organizational units which expended or otherwise administered Federal awards during such fiscal year provided that each such audit shall encompass the financial statements and schedule of expenditures of Federal awards for each such department, agency, and organizational unit, which shall be considered to be a non-Federal entity.

"(e) The auditor shall—

"(1) determine whether the financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles;

"(2) determine whether the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the financial statements taken as a whole;

"(3) with respect to internal controls pertaining to the compliance requirements for each major program—

"(A) obtain an understanding of such internal controls;

"(B) assess control risk; and

"(C) perform tests of controls unless the controls are deemed to be ineffective; and

"(4) determine whether the non-Federal entity has complied with the provisions of laws, regulations, and contracts or grants pertaining to Federal awards that have a direct and material effect on each major program.

"(f)(1) Each Federal agency which provides Federal awards to a recipient shall—

"(A) provide such recipient the program names (and any identifying numbers) from which such awards are derived, and the Federal requirements which govern the use of such awards and the requirements of this chapter; and

"(B) review the audit of a recipient as necessary to determine whether prompt and appropriate corrective action has been taken with respect to audit findings, as defined by the Director, pertaining to Federal awards provided to the recipient by the Federal agency.

"(2) Each pass-through entity shall—

"(A) provide such subrecipient the program names (and any identifying numbers) from which such assistance is derived, and the Federal requirements which govern the use of such awards and the requirements of this chapter;

"(B) monitor the subrecipient's use of Federal awards through site visits, limited scope audits, or other means;

"(C) review the audit of a subrecipient as necessary to determine whether prompt and appropriate corrective action has been taken with respect to audit findings, as defined by the Director, pertaining to Federal awards provided to the subrecipient by the pass-through entity; and

"(D) require each of its subrecipients of Federal awards to permit, as a condition of receiving Federal awards, the independent auditor of the pass-through entity to have such access to the subrecipient's records and financial statements as may be necessary for the pass-through entity to comply with this chapter.

"(g)(1) The auditor shall report on the results of any audit conducted pursuant to this section, in accordance with guidance issued by the Director.

"(2) When reporting on any single audit, the auditor shall include a summary of the auditor's results regarding the non-Federal entity's financial statements, internal controls, and compliance with laws and regulations.

"(h) The non-Federal entity shall transmit the reporting package, which shall include the non-Federal entity's financial statements, schedule of expenditures of Federal

awards, corrective action plan defined under subsection (i), and auditor's reports developed pursuant to this section, to a Federal clearinghouse designated by the Director, and make it available for public inspection within the earlier of—

“(1) 30 days after receipt of the auditor's report; or

“(2)(A) for a transition period of at least 2 years after the effective date of the Single Audit Act Amendments of 1996, as established by the Director, 13 months after the end of the period audited; or

“(B) for fiscal years beginning after the period specified in subparagraph (A), 9 months after the end of the period audited, or within a longer timeframe authorized by the Federal agency, determined under criteria issued under section [7505] 7504, when the 9-month timeframe would place an undue burden on the non-Federal entity.

“(i) If an audit conducted pursuant to this section discloses any audit findings, as defined by the Director, including material noncompliance with individual compliance requirements for a major program by, or reportable conditions in the internal controls of, the non-Federal entity with respect to the matters described in subsection (e), the non-Federal entity shall submit to Federal officials designated by the Director, a plan for corrective action to eliminate such audit findings or reportable conditions or a statement describing the reasons that corrective action is not necessary. Such plan shall be consistent with the audit resolution standard promulgated by the Comptroller General (as part of the standards for internal controls in the Federal Government) pursuant to section 3512(c).

“(j) The Director may authorize pilot projects to test alternative methods of achieving the purposes of this chapter. Such pilot projects may begin only after consultation with the Chair and Ranking Minority Member of the Committee on Governmental Affairs of the Senate and the Chair and Ranking Minority Member of the Committee on Government Reform and Oversight of the House of Representatives.

#### “§7503. Relation to other audit requirements

“(a) An audit conducted in accordance with this chapter shall be in lieu of any financial audit of Federal awards which a non-Federal entity is required to undergo under any other Federal law or regulation. To the extent that such audit provides a Federal agency with the information it requires to carry out its responsibilities under Federal law or regulation, a Federal agency shall rely upon and use that information.

“(b) Notwithstanding subsection (a), a Federal agency may conduct or arrange for additional audits which are necessary to carry out its responsibilities under Federal law or regulation. The provisions of this chapter do not authorize any non-Federal entity (or subrecipient thereof) to constrain, in any manner, such agency from carrying out or arranging for such additional audits, except that the Federal agency shall plan such audits to not be duplicative of other audits of Federal awards.

“(c) The provisions of this chapter do not limit the authority of Federal agencies to conduct, or arrange for the conduct of, audits and evaluations of Federal awards, nor limit the authority of any Federal agency Inspector General or other Federal official.

“(d) Subsection (a) shall apply to a non-Federal entity which undergoes an audit in accordance with this chapter even though it is not required by section 7502(a) to have such an audit.

“(e) A Federal agency that provides Federal awards and conducts or arranges for audits of non-Federal entities receiving such

awards that are in addition to the audits of non-Federal entities conducted pursuant to this chapter shall, consistent with other applicable law, arrange for funding the full cost of such additional audits. Any such additional audits shall be coordinated with the Federal agency determined under criteria issued under section 7504 to preclude duplication of the audits conducted pursuant to this chapter or other additional audits.

“(f) Upon request by a Federal agency or the Comptroller General, any independent auditor conducting an audit pursuant to this chapter shall make the auditor's working papers available to the Federal agency or the Comptroller General as part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent with the purposes of this chapter. Such access to auditor's working papers shall include the right to obtain copies.

#### “§7504. Federal agency responsibilities and relations with non-Federal entities

“(a) Each Federal agency shall, in accordance with guidance issued by the Director under section 7505, with regard to Federal awards provided by the agency—

“(1) monitor non-Federal entity use of Federal awards, and

“(2) assess the quality of audits conducted under this chapter for audits of entities for which the agency is the single Federal agency determined under subsection (b).

“(b) Each non-Federal entity shall have a single Federal agency, determined in accordance with criteria established by the Director, to provide the non-Federal entity with technical assistance and assist with implementation of this chapter.

“(c) The Director shall designate a Federal clearinghouse to—

“(1) receive copies of all reporting packages developed in accordance with this chapter; and

“(2) identify recipients that expend \$300,000 or more in Federal awards or such other amount specified by the Director under section 7502(a)(3) during the recipient's fiscal year but did not undergo an audit in accordance with this chapter; and

“(3) perform analyses to assist the Director in carrying out responsibilities under this chapter.

#### “§7505. Regulations

“(a) The Director, after consultation with the Comptroller General, and appropriate officials from Federal, State, and local governments and nonprofit organizations shall prescribe guidance to implement this chapter. Each Federal agency shall promulgate such amendments to its regulations as may be necessary to conform such regulations to the requirements of this chapter and of such guidance.

“(b)(1) The guidance prescribed pursuant to subsection (a) shall include criteria for determining the appropriate charges to Federal awards for the cost of audits. Such criteria shall prohibit a non-Federal entity from charging to any Federal awards—

“(A) the cost of any audit which is—

“(i) not conducted in accordance with this chapter; or

“(ii) conducted in accordance with this chapter when expenditures of Federal awards are less than amounts cited in section 7502(a)(1)(A) or specified by the Director under section 7502(a)(3), except that the Director may allow the cost of limited scope audits to monitor subrecipients in accordance with section 7502(f)(2)(B); and

“(B) more than a reasonably proportionate share of the cost of any such audit that is conducted in accordance with this chapter.

“(2) The criteria prescribed pursuant to paragraph (1) shall not, in the absence of documentation demonstrating a higher ac-

tual cost, permit the percentage of the cost of audits performed pursuant to this chapter charged to Federal awards, to exceed the ratio of total Federal awards expended by such non-Federal entity during the applicable fiscal year or years, to such non-Federal entity's total expenditures during such fiscal year or years.

“(c) Such guidance shall include such provisions as may be necessary to ensure that small business concerns and business concerns owned and controlled by socially and economically disadvantaged individuals will have the opportunity to participate in the performance of contracts awarded to fulfill the audit requirements of this chapter.

#### “§7506. Monitoring responsibilities of the Comptroller General

“(a) The Comptroller General shall review provisions requiring financial audits of non-Federal entities that receive Federal awards that are contained in bills and resolutions reported by the committees of the Senate and the House of Representatives.

“(b) If the Comptroller General determines that a bill or resolution contains provisions that are inconsistent with the requirements of this chapter, the Comptroller General shall, at the earliest practicable date, notify in writing—

“(1) the committee that reported such bill or resolution; and

“(2)(A) the Committee on Governmental Affairs of the Senate (in the case of a bill or resolution reported by a committee of the Senate); or

“(B) the Committee on Government Reform and Oversight of the House of Representatives (in the case of a bill or resolution reported by a committee of the House of Representatives).

#### “§7507. Effective date

“This chapter shall apply to any non-Federal entity with respect to any of its fiscal years which begin after June 30, 1996.”

#### SEC. 3. TRANSITIONAL APPLICATION.

Subject to section 7507 of title 31, United States Code (as amended by section 2 of this Act) the provisions of chapter 75 of such title (before amendment by section 2 of this Act) shall continue to apply to any State or local government with respect to any of its fiscal years beginning before July 1, 1996.

Mr. STEVENS. Mr. President, the Single Audit Act Amendments of 1996 provide a useful updating of an important law enacted 12 years ago. The original Single Audit Act of 1984 created a procedure by which a State or local government receiving funds from several Federal assistance programs would be subject only to one, comprehensive audit. A 1994 GAO report on the intergovernmental experience under the act indicates that it has resulted in both improved accountability over Federal assistance and strengthened financial management in all covered entities. It has done this while reducing the Federal audit burden on State and local governments.

The GAO report, however, also indicated that the process can be improved. And here I want to acknowledge the fine work of my colleague, Senator GLENN, in having first requested the GAO study, and then having worked with GAO to develop these amendments to the act. I am pleased to have joined with Senator GLENN in cosponsoring his bill. It further reduces the Federal audit burden on small governments, while improving audit coverage

and effectiveness by allowing auditors to focus on testing the riskiest programs that a government operates.

At the hearing I held on S. 1579, there was strong support for this legislation from the State auditors organization. The auditor from my own State of Alaska has indicated his own support, and I know this will be a real benefit to the local governments there, too. I urge my colleagues to join us in moving this very useful legislation forward today.

Mr. GLENN. Mr. President, I rise to urge my colleagues to support S. 1579, the Single Audit Act Amendments of 1996. This legislation amends the Single Audit Act of 1984. It is a bipartisan good government bill that will both improve financial management of Federal funds and reduce paperwork burdens on State and local governments, universities and other nonprofit organizations that receive Federal assistance. I am happy that the chairman of the Government Affairs Committee, Senator STEVENS, joined with me in cosponsoring the bill, as did Senators LEVIN, COCHRAN, PRYOR, COHEN, LIEBERMAN, BROWN and GRASSLEY. The legislation was reported unanimously by the Government Affairs Committee. And we have an identical bill moving through the House of Representatives—H.R. 3184, introduced by Representative STEVE HORN.

Over the last several years we have made great strides in reforming the sloppy and wasteful state of Federal financial management. The Chief Financial Officers Act of 1990, which I strongly support, was a major accomplishment in this regard. Much more remains to be done, however, to achieve greater accountability for the hundreds of billions of dollars of Federal assistance that go to or through State and local governments and nonprofit organizations. Much more also remains to be done to reduce the auditing and reporting burdens of the Federal assistance management process. The Single Audit Act Amendments of 1996 goes a long way toward achieving these goals.

The Single Audit Act was enacted in 1984 to overcome serious gaps and duplications that existed in audit coverage over Federal funds provided to State and local governments, which now amount to about \$250 billion a year. Some governments rarely saw an auditor interested in examining Federal funds, others were swamped by auditors, each looking at a separate grant award. The Single Audit Act remedied that problem by changing the audit focus from compliance with individual Federal grant requirements to a periodic single overall audit of the entity receiving Federal assistance. The act also set specific dollar thresholds to exempt recipients that receive relatively small amounts of Federal assistance from regular audit requirements. In passing the original legislation, Congress considered the benefits and costs and developed criteria that exposed the vast majority of Federal

assistance to State and local governments to audit coverage. This structured approach of entity-wide audits simplified overlapping audit requirements and improved grantee-organizational administrative controls.

The Single Audit Act also served an important purpose of prompting State and local governments to improve their general financial management practices. The act encouraged the governments to review and revise their financial management practices, including instituting annual financial statement audits, installing new accounting systems, and implementing monitoring systems. The improvements represented long-needed and long-lasting financial management reforms. Studies by the General Accounting Office [GAO] confirmed these accomplishments. The success of the act also prompted the Office of Management and Budget [OMB] in 1990 to apply single audit principles to educational institutions and other nonprofit organizations that receive or pass through Federal funds—OMB Circular No. A-133, "Audits of Institutions of Higher Education and Other Nonprofit Organizations," issued in March 1990, revised in April 1996.

During my tenure as chairman of the Governmental Affairs Committee, I requested that GAO study the implementation of the Single Audit Act and suggest any needed changes. The resulting report, "Single Audit: Refinements Can Improve Usefulness" (GAO/AIMD-94-133, June 1994), reviewed the successes of the act, but also pointed out specific modifications that could improve the act's usefulness. The legislation we bring to the Senate today is based on GAO's findings as well as studies by the President's Council on Integrity and Efficiency and National State Auditors Association. The bill was developed in cooperation with GAO and OMB. Moreover, OMB recently revised its Circular A-133 consistent with the purposes of this legislation. However, the circular continues to apply only to nonprofit organizations—State and local governments are not covered. With the passage of this legislation, OMB will be able to take the next step and consolidate its grant audit requirements in one circular. Finally, the bill also reflects comments received from State, local, and private sector accounting and audit professionals, as well as program managers. Altogether, the legislation will strengthen the act, while simultaneously reducing its burdens.

First, the legislation extends the act to cover nonprofit organizations that receive Federal assistance. Again, these organizations are currently subject to the single audit process under OMB Circular A-133. Broadening the act's coverage in this way ensures that all non-Federal grantee organizations will be covered uniformly by one single audit process.

Second, the bill reduces audit and related paperwork burdens by raising the

single audit threshold from \$100,000 to \$300,000. This will exempt thousands of smaller State and local governments and nonprofit organizations that receive relatively small amounts of Federal assistance from Federal single audit requirements. It will still ensure, however, that the vast majority of Federal funds will be subject to audit testing. Needless to say, it will also reinforce the ability of Federal agencies to audit or investigate grantees when needed to safeguard Federal funds.

Third, the bill will improve audit effectiveness by establishing a risk-based approach for selecting programs to be tested during single audits for adequacy of internal controls and compliance with Federal program requirements, such as eligibility of participants and allowability of costs. The Single Audit Act has required audit testing solely on the basis of dollar criteria. Using a risk-based approach will ensure coverage of programs that present the highest risk to the Federal Government.

Fourth, the legislation improves the contents and timeliness of single audit reporting to make the reports more useful. Currently, auditors often include many different documents in a single audit report. These documents are designed to comply with auditing standards but leave users confused. A summary document, written in plain language, would greatly increase the usefulness of single audit reports. Report users would be able to quickly discern which entities are having problems administering Federal programs and consequently need additional oversight.

Shortening the reporting time frame will also make the single audit reports more useful. The current practice of filing reports 13 months after the end of the year that was audited significantly reduces their utility. An ideal period would be the Government Finance Officers Association's standard of 6 months for timely reporting by State and local governments. However, given the numerous audits that some State auditors have to perform, the legislation establishes a 9-month standard. Moreover, the legislation establishes a 2-year transition period for entities to comply with the faster reporting and gives flexibility for extensions as needed. The overall goal, still, is to shorten the reporting time frame to make the single audit reports more useful to assess the stewardship of organizations entrusted with Federal funds and to prompt any needed corrective actions.

Fifth, the legislation increases administrative flexibility. OMB is authorized to issue rules to implement the act and may revise certain audit requirements, as needed, without seeking amendments to the act. For example, OMB will be authorized to raise even higher the \$300,000 threshold. Auditors also will have greater flexibility to target programs at risk.

In these and other ways, the Single Audit Act Amendments of 1996 will

streamline the underlying Single Audit Act, update its requirements, reduce burdens, and provide for more flexibility. This legislation builds on the significant accomplishments of the 1984 act and I am confident that my colleagues will agree that this legislation should be broadly supported by the Senate.

In December 1995, the Senate Committee on Governmental Affairs held a hearing on the status of Federal financial management, including the Single Audit Act. Charles Bowsher, the Comptroller General, and Kurt Sjoberg, the California State Auditor who represented the National State Auditors Association, strongly supported the legislation and recommended that it be enacted. Edward DeSeve, Office of Management and Budget Controller, also applauded the legislative effort.

The support of the Comptroller General and the State auditors is especially important. The Comptroller General was instrumental in advising the Congress when the original Single Audit Act was enacted. He followed the subsequent implementation of the act and has made the recommendations for improving the act that was the basis for the current legislation. I give great weight to his recommendations for amending the Single Audit Act. State auditors, for their part, are key players in the single audit process. They conduct or arrange for thousands of single audits each year. So, their views are also critically important. Following the December hearing, the National State Auditors Association met to discuss the legislation and decided unanimously to support its enactment. The President's Council on Integrity and Efficiency Audit Committee also submitted a letter in support of the legislation. I ask that their letters of support be included in the RECORD.

On April 18, 1996, the Committee on Governmental Affairs marked up S. 1579 and voted unanimously to send the bill to the floor for a vote. Again, this bipartisanship also extends to the House of Representatives, where an identical bill (H.R. 3184) was introduced on March 28, 1996 by Representative HORN and four cosponsors. The House of Representatives Committee on Government Reform and Oversight voted the bill out of committee on April 25, 1996. With this bipartisan support, I am sure that this good Government legislation can soon become law.

In closing, let me just say that good Government legislation such as the Single Audit Act Amendments of 1996 is often overlooked and discounted. It is unimportant to many, boring to most. But it is just this sort of nuts and bolts legislation that is needed to improve the efficiency and effectiveness of our Government. The end result of enactment of S. 1579 will be a Government more accountable to its people.

To reach this point, we have had the help of colleagues on each side of the aisle, as I have said. We have also had

the assistance of, and need to thank, the Comptroller General, Charles Bowsher, and his staff—most especially, Jerry Skelly—we would not be here today without Jerry's tireless work. I'd also like to thank Kurt Sjoberg, the California State Auditor, Woody Jackson, OMB's Deputy Controller, John Mercer with Senator STEVENS, Anna Miller on Representative HORN's staff, and David Plocher on my staff—all have contributed greatly to this legislation.

I urge my colleagues to support this legislation.

Mr. President, again, I ask unanimous consent that letters of endorsement of S. 1579 from the National State Auditors Association and the Audit Committee of the President's Council on Integrity and Efficiency, as well as a summary of the legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL STATE  
AUDITORS ASSOCIATION,  
Washington, DC, January 29, 1996.

Hon. JOHN GLENN,  
Ranking Minority Member, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR GLENN: The National State Auditors Association has voted unanimously to support the proposed bill to amend the Single Audit Act of 1984. My state audit colleagues and I believe that the proposed legislation is an excellent measure that deserves to be passed into law as soon as possible.

The Single Audit Act amendments provide a unique opportunity to address the needs of federal, state and local government auditors and program managers. The original act is over 10 years old and the amendments address many of the changes that have occurred over the years in the auditing profession and in government financial management. The bill is the result of open and constructive dialog among the stakeholders. Over the last several months, we have worked closely with congressional staff as well as representatives of the General Accounting Office and the Office of Management and Budget. As currently drafted, the bill provides needed improvements to financial accountability over federal grant funds.

While there are several excellent provisions in the amended act, two are particularly noteworthy. First, the minimum threshold of receipts requiring an entity to have a single audit performed is raised in the bill to \$300,000. Similarly, the thresholds for larger recipients are also adjusted. These modifications will relieve many state and local governments of unnecessary federal mandates and generate savings of audit costs. Second, the amendments allow federal and state governments to focus audit resources on "high-risk" grants where the potential for savings is the greatest. It makes good economic sense to concentrate audits where increased corrective action and recoveries are likely to result.

In summary, the National State Auditors Association is pleased to fully support the amendments to the Single Audit Act of 1984 and assist you in any way possible to facilitate its passage this year.

Sincerely,

ANTHONY VERDECCHIA,  
President.

PRESIDENT'S COUNCIL ON  
INTEGRITY AND EFFICIENCY,  
Washington, DC, March 12, 1996.

Hon. JOHN GLENN,  
Ranking Minority Member, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR GLENN: The Audit Committee of the President's Council on Integrity and Efficiency (PCIE) is pleased to extend its support for Senate Bill S. 1579, "Single Audit Act Amendments of 1996." We believe that the improvements to the Single Audit Act of 1984 contained in this bill will result in significantly more effective and efficient auditing of Federal program funds at State and local governments and non-profit organizations and we urge that it be passed as soon as possible.

The Single Audit Act of 1984 is over 11 years old. In 1993 the PCIE issued a report entitled, *Study on Improving the Single Audit Process*. In that report we concluded that while the Act was successful in achieving its objectives, changes were needed to further improve the auditing and financial management of Federal program funds. The report contained a number of specific recommendations for changes to the Single Audit Act of 1984, related Office of Management and Budget Circulars and other implementing guidance from the auditing profession. We are pleased to see that all of our recommendations that require legislative change have been addressed in the proposed amendments.

Of the many improvements contained in the bill, we believe the most far-reaching are the provisions for a "risk-based" approach to determining audit coverage. These provisions will allow auditors to concentrate their audits on the areas of highest risk, rather than auditing the same programs every year based solely on funding level, regardless of risk. We believe that these provisions, along with other provisions shortening the due dates for audits and providing additional flexibilities, will result in much more effective audit coverage and more useful audit reports for Federal and grantee program managers.

In summary, the PCIE Audit Committee fully supports the bill and recommends that it be passed as soon as possible.

Sincerely,

VALERIE LAU,  
Chair, Audit Committee.

SINGLE AUDIT ACT AMENDMENTS OF 1996 (S.  
1579)

This bill amends the Single Audit Act of 1984 (P.L. 98-502). The 1984 Act replaced multiple grant-by-grant audits with an annual entity-wide audit process for State and local governments that receive Federal assistance. The new bill would broaden the scope of the Act to cover universities and other nonprofit organizations, as well. It would also streamline the process. Thus, the bill would improve accountability for hundreds of billions of dollars of Federal assistance, while also reducing auditing and paperwork burdens on grant recipients.

The bill was developed following GAO review of implementation of the Single Audit Act ("Single Audit: Refinements Can Improve Usefulness," GAO/AIMD-94-133, June 21, 1994). Major stakeholders in the single audit process were consulted during the drafting process. Support for the bill was confirmed at a December 14, 1995, hearing of the Senate Committee on Governmental Affairs. The bill was introduced on February 27, 1996, by Senator Glenn, and co-sponsored by Senators Stevens, Levin, Cochran, Pryor, Cohen, Lieberman, Brown, and Grassley. The bill was reported out of the Committee on Governmental Affairs on April 18, 1996. An

identical bill (H.R. 3184) was under consideration at the same time by the House of Representatives Committee on Governmental Reform and Oversight.

Ten years' experience under the 1984 Act has been proven that the single audit concept promotes accountability over Federal assistance and prompts financial management improvements. Study also showed, however, that the process can be strengthened. This bill would (1) improve audit coverage of Federal assistance, (2) reduce burdens on non-Federal entities, (3) improve audit effectiveness, (4) improve single audit reporting, and (5) increase administrative flexibility.

**Improve Audit Coverage**—The bill would improve audit coverage of Federal assistance by including in the single audit process all State and local governments and nonprofit organizations that receive Federal assistance. Currently, the Act only applies to State and local governments. Nonprofit organizations are subject administratively to single audits under OMB Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Organizations." Including nonprofit organizations under the Act would result in a common set of single audit requirements for Federal assistance.

**Reduce Federal Burden**—The bill would simultaneously reduce Federal burdens on thousands of State and local governments and nonprofits, and ensure audit coverage over the vast majority of Federal assistance provided to those organizations. It would do so by raising the dollar threshold for requiring a single audit from \$100,000 to \$300,000. While this would relieve many grantees of Federal single audit mandates, GAO estimated that a \$300,000 threshold would cover, for example, 95% of direct Federal assistance to local governments. This is commensurate with the coverage provided at the \$100,000 threshold when the Act was passed in 1984. Thus, exempting thousands of entities from single audits would reduce audit and paperwork burdens, but not significantly diminish the percentage of Federal assistance covered by single audits.

**Improve Audit Effectiveness**—The bill would improve audit effectiveness by directing audit resources to the areas of greatest risk. Now, auditors must perform audit testing on an entity's largest—but not necessarily the riskiest—programs. The bill would require auditors to assess the risk of the programs an entity operates and select the riskiest programs for testing. As the President of the National State Auditors Association said, "it makes good economic sense to concentrate audits where increased corrective action and recoveries are likely to result."

**Improve Single Audit Reporting**—The bill would greatly improve the usefulness of single audit reports by requiring auditors to provide a summary of audit results. The reports would also be due sooner—9 months after the year-end rather than the current 13 months. Interpretations of current rules lead auditors to include 7 or more separate reports in each single audit report. Such a large number of reports tends to confuse rather than inform users. A summary of the audit results would highlight important information and thus enable users to quickly discern the overall results of an audit. Federal managers surveyed by GAO overwhelmingly support the summary reporting and faster submission of reports.

**Increase Administrative Flexibility**—The bill would enable the single audit process to evolve with changing circumstances. For example, rather than lock specific dollar amount audit thresholds into law, OMB would have the authority to periodically revise the audit threshold above the new

\$300,000 threshold. OMB also could revise criteria for selecting programs for audit testing. By giving OMB such authority, specific requirements within the single audit process could be revised administratively to reflect changing circumstances that affect accountability for Federal financial assistance.

The Single Audit Act Amendments of 1996 (S. 1579) is "Good Government" legislation. Based on GAO studies and endorsed by the National State Auditors Association, the bill represents consensus reform legislation that will improve accountability over Federal funds and reduce burdens on State and local governments and nonprofit organizations.

Mr. LEVIN. Mr. President, as a cosponsor of the Single Audit Act amendments, I am pleased that the Senate is considering this legislation today. S. 1579 would improve accountability over Federal assistance provided to State and local governments.

The Single Audit Act of 1984 created a uniform requirement for Federal audits of individual State and local programs which received Federal assistance. It also provided a comprehensive, organizationwide approach to single audits. While the act has been a key factor in the improvement of government financial management practices, we have learned a lot since the enactment of the act and the passage of time has revealed the need for changes.

This bill amends the 1984 act to further reduce unnecessary audit burdens on State and local governments and nonprofit organizations while ensuring accountability and oversight of the use of Federal funds.

The bill would place State and local governments, colleges and universities, and other nonprofit grantees under the same single audit process. This would allow the Office of Management and Budget to develop uniform guidelines and auditing requirements.

Second, the bill increases the dollar threshold that triggers the requirement for a single audit, from \$100,000 to \$300,000. This change would reduce audit costs while only minimally reducing audit coverage of Federal program expenditures. We would be able to still achieve the goal of 95 percent audit coverage, which was originally included in the 1984 act.

Third, the bill establishes a risk-based approach to determine which Federal programs should be audited to allow the Federal, State, and local auditors the discretion of focusing audit resources where the potential for return is the greatest.

Fourth, the bill improved the contents and timeliness of single audit reports by requiring a summary of audit findings and results and by reducing the report due-date from 13 to 9 months to improve the timeliness of report submission. A report prepared closer to the end of the reporting period together with the shorter reporting requirement to submit a summary of audit findings and results will increase the utility of the audit to senior management and Federal program officials.

Finally, the bill authorizes the Director of the Office of Management and

Budget to expand and revise audit requirements to ensure continued effectiveness of the audit process. This change would allow the Office of Management and Budget to adjust auditing thresholds for future inflation, and also allow auditors to assess program and management performance.

Mr. President, I would like to thank Senator GLENN for his leadership on this issue and my colleagues for their support and cooperation in getting this bill to the floor. I would also like to thank the National State Auditors Association, the President's Council on Integrity and Efficiency, and the General Accounting Office for conducting the independent survey to assess the 1984 act and to determine how it could be improved. Their study results were instrumental in developing this legislation.

Mr. MACK. Mr. President, I ask unanimous consent that the committee amendments be agreed to, the bill, as amended, be deemed read three times, passed, the motion to reconsider be laid upon the table, and that any statements relating thereto appear at an appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The bill (S. 1579), as amended, was deemed read the third time and passed, as follows:

S. 1579

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; PURPOSES.

(a) SHORT TITLE.—This Act may be cited as the "Single Audit Act Amendments of 1996".

(b) PURPOSES.—The purposes of this Act are to—

(1) promote sound financial management, including effective internal controls, with respect to Federal awards administered by non-Federal entities;

(2) establish uniform requirements for audits of Federal awards administered by non-Federal entities;

(3) promote the efficient and effective use of audit resources;

(4) reduce burdens on State and local governments, Indian tribes, and nonprofit organizations; and

(5) ensure that Federal departments and agencies, to the maximum extent practicable, rely upon and use audit work done pursuant to chapter 75 of title 31, United States Code (as amended by this Act).

#### SEC. 2. AMENDMENT TO TITLE 31, UNITED STATES CODE.

Chapter 75 of title 31, United States Code, is amended to read as follows:

##### "CHAPTER 75—REQUIREMENTS FOR SINGLE AUDITS

"Sec.

"7501. Definitions.

"7502. Audit requirements; exemptions.

"7503. Relation to other audit requirements.

"7504. Federal agency responsibilities and relations with non-Federal entities.

"7505. Regulations.

"7506. Monitoring responsibilities of the Comptroller General.

"7507. Effective date.

##### "§ 7501. Definitions

"(a) As used in this chapter, the term—



"(1) 'Comptroller General' means the Comptroller General of the United States;

"(2) 'Director' means the Director of the Office of Management and Budget;

"(3) 'Federal agency' has the same meaning as the term 'agency' in section 551(l) of title 5;

"(4) 'Federal awards' means Federal financial assistance and Federal cost-reimbursement contracts that non-Federal entities receive directly from Federal awarding agencies or indirectly from pass-through entities;

"(5) 'Federal financial assistance' means assistance that non-Federal entities receive or administer in the form of grants, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, or other assistance, but does not include amounts received as reimbursement for services rendered to individuals in accordance with guidance issued by the Director;

"(6) 'Federal program' means all Federal awards to a non-Federal entity assigned a single number in the Catalog of Federal Domestic Assistance or encompassed in a group of numbers or other category as defined by the Director;

"(7) 'generally accepted government auditing standards' means the government auditing standards issued by the Comptroller General;

"(8) 'independent auditor' means—

"(A) an external State or local government auditor who meets the independence standards included in generally accepted government auditing standards; or

"(B) a public accountant who meets such independence standards;

"(9) 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

"(10) 'internal controls' means a process, effected by an entity's management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

"(A) Effectiveness and efficiency of operations.

"(B) Reliability of financial reporting.

"(C) Compliance with applicable laws and regulations;

"(11) 'local government' means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, any other instrumentality of local government and, in accordance with guidelines issued by the Director, a group of local governments;

"(12) 'major program' means a Federal program identified in accordance with risk-based criteria prescribed by the Director under this chapter, subject to the limitations described under subsection (b);

"(13) 'non-Federal entity' means a State, local government, or nonprofit organization;

"(14) 'nonprofit organization' means any corporation, trust, association, cooperative, or other organization that—

"(A) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

"(B) is not organized primarily for profit; and

"(C) uses net proceeds to maintain, improve, or expand the operations of the organization;

"(15) 'pass-through entity' means a non-Federal entity that provides Federal awards

to a subrecipient to carry out a Federal program;

"(16) 'program-specific audit' means an audit of one Federal program;

"(17) 'recipient' means a non-Federal entity that receives awards directly from a Federal agency to carry out a Federal program;

"(18) 'single audit' means an audit, as described under section 7502(d), of a non-Federal entity that includes the entity's financial statements and Federal awards;

"(19) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian tribe; and

"(20) 'subrecipient' means a non-Federal entity that receives Federal awards through another non-Federal entity to carry out a Federal program, but does not include an individual who receives financial assistance through such awards.

"(b) In prescribing risk-based program selection criteria for major programs, the Director shall not require more programs to be identified as major for a particular non-Federal entity, except as prescribed under subsection (c) or as provided under subsection (d), than would be identified if the major programs were defined as any program for which total expenditures of Federal awards by the non-Federal entity during the applicable year exceed—

"(1) the larger of \$30,000,000 or 0.15 percent of the non-Federal entity's total Federal expenditures, in the case of a non-Federal entity for which such total expenditures for all programs exceed \$10,000,000,000;

"(2) the larger of \$3,000,000, or 0.30 percent of the non-Federal entity's total Federal expenditures, in the case of a non-Federal entity for which such total expenditures for all programs exceed \$100,000,000 but are less than or equal to \$10,000,000,000; or

"(3) the larger of \$300,000, or 3 percent of such total Federal expenditures for all programs, in the case of a non-Federal entity for which such total expenditures for all programs equal or exceed \$300,000 but are less than or equal to \$100,000,000.

"(c) When the total expenditures of a non-Federal entity's major programs are less than 50 percent of the non-Federal entity's total expenditures of all Federal awards (or such lower percentage as specified by the Director), the auditor shall select and test additional programs as major programs as necessary to achieve audit coverage of at least 50 percent of Federal expenditures by the non-Federal entity (or such lower percentage as specified by the Director), in accordance with guidance issued by the Director.

"(d) Loan or loan guarantee programs, as specified by the Director, shall not be subject to the application of subsection (b).

#### "§ 7502. Audit requirements; exemptions

"(a)(1)(A) Each non-Federal entity that expends a total amount of Federal awards equal to or in excess of \$300,000 or such other amount specified by the Director under subsection (a)(3) in any fiscal year of such non-Federal entity shall have either a single audit or a program-specific audit made for such fiscal year in accordance with the requirements of this chapter.

"(B) Each such non-Federal entity that expends Federal awards under more than one Federal program shall undergo a single audit in accordance with the requirements of subsections (b) through (i) of this section and guidance issued by the Director under section 7505.

"(C) Each such non-Federal entity that expends awards under only one Federal program and is not subject to laws, regulations, or Federal award agreements that require a financial statement audit of the non-Federal entity, may elect to have a program-specific audit conducted in accordance with applicable provisions of this section and guidance issued by the Director under section 7505.

"(2)(A) Each non-Federal entity that expends a total amount of Federal awards of less than \$300,000 or such other amount specified by the Director under subsection (a)(3) in any fiscal year of such entity, shall be exempt for such fiscal year from compliance with—

"(i) the audit requirements of this chapter; and

"(ii) any applicable requirements concerning financial audits contained in Federal statutes and regulations governing programs under which such Federal awards are provided to that non-Federal entity.

"(B) The provisions of subparagraph (A)(ii) of this paragraph shall not exempt a non-Federal entity from compliance with any provision of a Federal statute or regulation that requires such non-Federal entity to maintain records concerning Federal awards provided to such non-Federal entity or that permits a Federal agency, pass-through entity, or the Comptroller General access to such records.

"(3) Every 2 years, the Director shall review the amount for requiring audits prescribed under paragraph (1)(A) and may adjust such dollar amount consistent with the purposes of this chapter, provided the Director does not make such adjustments below \$300,000.

"(b)(1) Except as provided in paragraphs (2) and (3), audits conducted pursuant to this chapter shall be conducted annually.

"(2) A State or local government that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits pursuant to this chapter biennially. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period.

"(3) Any nonprofit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its audits pursuant to this chapter biennially. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period.

"(c) Each audit conducted pursuant to subsection (a) shall be conducted by an independent auditor in accordance with generally accepted government auditing standards, except that, for the purposes of this chapter, performance audits shall not be required except as authorized by the Director.

"(d) Each single audit conducted pursuant to subsection (a) for any fiscal year shall—

"(1) cover the operations of the entire non-Federal entity; or

"(2) at the option of such non-Federal entity such audit shall include a series of audits that cover departments, agencies, and other organizational units which expended or otherwise administered Federal awards during such fiscal year provided that each such audit shall encompass the financial statements and schedule of expenditures of Federal awards for each such department, agency, and organizational unit, which shall be considered to be a non-Federal entity.

"(e) The auditor shall—

"(1) determine whether the financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles;

"(2) determine whether the schedule of expenditures of Federal awards is presented

fairly in all material respects in relation to the financial statements taken as a whole;

"(3) with respect to internal controls pertaining to the compliance requirements for each major program—

"(A) obtain an understanding of such internal controls;

"(B) assess control risk; and

"(C) perform tests of controls unless the controls are deemed to be ineffective; and

"(4) determine whether the non-Federal entity has complied with the provisions of laws, regulations, and contracts or grants pertaining to Federal awards that have a direct and material effect on each major program.

"(f)(1) Each Federal agency which provides Federal awards to a recipient shall—

"(A) provide such recipient the program names (and any identifying numbers) from which such awards are derived, and the Federal requirements which govern the use of such awards and the requirements of this chapter; and

"(B) review the audit of a recipient as necessary to determine whether prompt and appropriate corrective action has been taken with respect to audit findings, as defined by the Director, pertaining to Federal awards provided to the recipient by the Federal agency.

"(2) Each pass-through entity shall—

"(A) provide such subrecipient the program names (and any identifying numbers) from which such assistance is derived, and the Federal requirements which govern the use of such awards and the requirements of this chapter;

"(B) monitor the subrecipient's use of Federal awards through site visits, limited scope audits, or other means;

"(C) review the audit of a subrecipient as necessary to determine whether prompt and appropriate corrective action has been taken with respect to audit findings, as defined by the Director, pertaining to Federal awards provided to the subrecipient by the pass-through entity; and

"(D) require each of its subrecipients of Federal awards to permit, as a condition of receiving Federal awards, the independent auditor of the pass-through entity to have such access to the subrecipient's records and financial statements as may be necessary for the pass-through entity to comply with this chapter.

"(g)(1) The auditor shall report on the results of any audit conducted pursuant to this section, in accordance with guidance issued by the Director.

"(2) When reporting on any single audit, the auditor shall include a summary of the auditor's results regarding the non-Federal entity's financial statements, internal controls, and compliance with laws and regulations.

"(h) The non-Federal entity shall transmit the reporting package, which shall include the non-Federal entity's financial statements, schedule of expenditures of Federal awards, corrective action plan defined under subsection (i), and auditor's reports developed pursuant to this section, to a Federal clearinghouse designated by the Director, and make it available for public inspection within the earlier of—

"(1) 30 days after receipt of the auditor's report; or

"(2)(A) for a transition period of at least 2 years after the effective date of the Single Audit Act Amendments of 1996, as established by the Director, 13 months after the end of the period audited; or

"(B) for fiscal years beginning after the period specified in subparagraph (A), 9 months after the end of the period audited, or within a longer timeframe authorized by the Federal agency, determined under criteria is-

sued under section 7504, when the 9-month timeframe would place an undue burden on the non-Federal entity.

"(i) If an audit conducted pursuant to this section discloses any audit findings, as defined by the Director, including material noncompliance with individual compliance requirements for a major program by, or reportable conditions in the internal controls of, the non-Federal entity with respect to the matters described in subsection (e), the non-Federal entity shall submit to Federal officials designated by the Director, a plan for corrective action to eliminate such audit findings or reportable conditions or a statement describing the reasons that corrective action is not necessary. Such plan shall be consistent with the audit resolution standard promulgated by the Comptroller General (as part of the standards for internal controls in the Federal Government) pursuant to section 3512(c).

"(j) The Director may authorize pilot projects to test alternative methods of achieving the purposes of this chapter. Such pilot projects may begin only after consultation with the Chair and Ranking Minority Member of the Committee on Governmental Affairs of the Senate and the Chair and Ranking Minority Member of the Committee on Government Reform and Oversight of the House of Representatives.

#### "§ 7503. Relation to other audit requirements

"(a) An audit conducted in accordance with this chapter shall be in lieu of any financial audit of Federal awards which a non-Federal entity is required to undergo under any other Federal law or regulation. To the extent that such audit provides a Federal agency with the information it requires to carry out its responsibilities under Federal law or regulation, a Federal agency shall rely upon and use that information.

"(b) Notwithstanding subsection (a), a Federal agency may conduct or arrange for additional audits which are necessary to carry out its responsibilities under Federal law or regulation. The provisions of this chapter do not authorize any non-Federal entity (or subrecipient thereof) to constrain, in any manner, such agency from carrying out or arranging for such additional audits, except that the Federal agency shall plan such audits to not be duplicative of other audits of Federal awards.

"(c) The provisions of this chapter do not limit the authority of Federal agencies to conduct, or arrange for the conduct of, audits and evaluations of Federal awards, nor limit the authority of any Federal agency Inspector General or other Federal official.

"(d) Subsection (a) shall apply to a non-Federal entity which undergoes an audit in accordance with this chapter even though it is not required by section 7502(a) to have such an audit.

"(e) A Federal agency that provides Federal awards and conducts or arranges for audits of non-Federal entities receiving such awards that are in addition to the audits of non-Federal entities conducted pursuant to this chapter shall, consistent with other applicable law, arrange for funding the full cost of such additional audits. Any such additional audits shall be coordinated with the Federal agency determined under criteria issued under section 7504 to preclude duplication of the audits conducted pursuant to this chapter or other additional audits.

"(f) Upon request by a Federal agency or the Comptroller General, any independent auditor conducting an audit pursuant to this chapter shall make the auditor's working papers available to the Federal agency or the Comptroller General as part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent

with the purposes of this chapter. Such access to auditor's working papers shall include the right to obtain copies.

#### "§ 7504. Federal agency responsibilities and relations with non-Federal entities

"(a) Each Federal agency shall, in accordance with guidance issued by the Director under section 7505, with regard to Federal awards provided by the agency—

"(1) monitor non-Federal entity use of Federal awards, and

"(2) assess the quality of audits conducted under this chapter for audits of entities for which the agency is the single Federal agency determined under subsection (b).

"(b) Each non-Federal entity shall have a single Federal agency, determined in accordance with criteria established by the Director, to provide the non-Federal entity with technical assistance and assist with implementation of this chapter.

"(c) The Director shall designate a Federal clearinghouse to—

"(1) receive copies of all reporting packages developed in accordance with this chapter;

"(2) identify recipients that expend \$300,000 or more in Federal awards or such other amount specified by the Director under section 7502(a)(3) during the recipient's fiscal year but did not undergo an audit in accordance with this chapter; and

"(3) perform analyses to assist the Director in carrying out responsibilities under this chapter.

#### "§ 7505. Regulations

"(a) The Director, after consultation with the Comptroller General, and appropriate officials from Federal, State, and local governments and nonprofit organizations shall prescribe guidance to implement this chapter. Each Federal agency shall promulgate such amendments to its regulations as may be necessary to conform such regulations to the requirements of this chapter and of such guidance.

"(b)(1) The guidance prescribed pursuant to subsection (a) shall include criteria for determining the appropriate charges to Federal awards for the cost of audits. Such criteria shall prohibit a non-Federal entity from charging to any Federal awards—

"(A) the cost of any audit which is—

"(i) not conducted in accordance with this chapter; or

"(ii) conducted in accordance with this chapter when expenditures of Federal awards are less than amounts cited in section 7502(a)(1)(A) or specified by the Director under section 7502(a)(3), except that the Director may allow the cost of limited scope audits to monitor subrecipients in accordance with section 7502(f)(2)(B); and

"(B) more than a reasonably proportionate share of the cost of any such audit that is conducted in accordance with this chapter.

"(2) The criteria prescribed pursuant to paragraph (1) shall not, in the absence of documentation demonstrating a higher actual cost, permit the percentage of the cost of audits performed pursuant to this chapter charged to Federal awards, to exceed the ratio of total Federal awards expended by such non-Federal entity during the applicable fiscal year or years, to such non-Federal entity's total expenditures during such fiscal year or years.

"(c) Such guidance shall include such provisions as may be necessary to ensure that small business concerns and business concerns owned and controlled by socially and economically disadvantaged individuals will have the opportunity to participate in the performance of contracts awarded to fulfill the audit requirements of this chapter.



### **"§7506. Monitoring responsibilities of the Comptroller General"**

"(a) The Comptroller General shall review provisions requiring financial audits of non-Federal entities that receive Federal awards that are contained in bills and resolutions reported by the committees of the Senate and the House of Representatives.

"(b) If the Comptroller General determines that a bill or resolution contains provisions that are inconsistent with the requirements of this chapter, the Comptroller General shall, at the earliest practicable date, notify in writing—

"(1) the committee that reported such bill or resolution; and

"(2)(A) the Committee on Governmental Affairs of the Senate (in the case of a bill or resolution reported by a committee of the Senate); or

"(B) the Committee on Government Reform and Oversight of the House of Representatives (in the case of a bill or resolution reported by a committee of the House of Representatives).

### **"§7507. Effective date"**

"This chapter shall apply to any non-Federal entity with respect to any of its fiscal years which begin after June 30, 1996."

### **SEC. 3. TRANSITIONAL APPLICATION.**

Subject to section 7507 of title 31, United States Code (as amended by section 2 of this Act) the provisions of chapter 75 of such title (before amendment by section 2 of this Act) shall continue to apply to any State or local government with respect to any of its fiscal years beginning before July 1, 1996.

## **ANTICOUNTERFEITING CONSUMER PROTECTION ACT OF 1995**

Mr. MACK. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House to accompany S. 1136.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 1136) entitled "An Act to control and prevent commercial counterfeiting, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

### **SECTION 1. SHORT TITLE.**

This Act may be cited as the "Anticounterfeiting Consumer Protection Act of 1996".

### **SEC. 2. FINDINGS.**

The counterfeiting of trademarked and copyrighted merchandise—

(1) has been connected with organized crime;

(2) deprives legitimate trademark and copyright owners of substantial revenues and consumer goodwill;

(3) poses health and safety threats to United States consumers;

(4) eliminates United States jobs; and

(5) is a multibillion-dollar drain on the United States economy.

### **SEC. 3. COUNTERFEITING AS RACKETEERING.**

Section 1961(1)(B) of title 18, United States Code, is amended by inserting " ", section 2318 (relating to trafficking in counterfeit labels for phonorecords, computer programs or computer program documentation or packaging and copies of motion pictures or other audiovisual works), section 2319 (relating to criminal infringement of a copyright), section 2319A (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical per-

formances), section 2320 (relating to trafficking in goods or services bearing counterfeit marks)" after "sections 2314 and 2315 (relating to interstate transportation of stolen property)".

### **SEC. 4. APPLICATION TO COMPUTER PROGRAMS, COMPUTER PROGRAM DOCUMENTATION, OR PACKAGING.**

(a) IN GENERAL.—Section 2318 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "a motion picture or other audiovisual work," and inserting "a computer program or documentation or packaging for a computer program, or a copy of a motion picture or other audiovisual work, and whoever, in any of the circumstances described in subsection (c) of this section, knowingly traffics in counterfeit documentation or packaging for a computer program,";

(2) in subsection (b)(3) by inserting "'computer program'," after "'motion picture'"; and

(3) in subsection (c)—

(A) by striking "or" at the end of paragraph (2);

(B) in paragraph (3)—

(i) by inserting "a copy of a copyrighted computer program or copyrighted documentation or packaging for a computer program," after "enclose,"; and

(ii) by striking the period at the end and inserting "or"; and

(C) by adding after paragraph (3) the following:

"(4) the counterfeited documentation or packaging for a computer program is copyrighted."

(b) CONFORMING AMENDMENTS.—(1) The section caption for section 2318 of title 18, United States Code, is amended to read as follows:

**"§2318. Trafficking in counterfeit labels for phonorecords, copies of computer programs or computer program documentation or packaging, and copies of motion pictures or other audio visual works, and trafficking in counterfeit computer program documentation or packaging"**

(2) The item relating to section 2318 in the table of sections for chapter 113 of such title is amended to read as follows:

"2318. Trafficking in counterfeit labels for phonorecords, copies of computer programs or computer program documentation or packaging, and copies of motion pictures or other audio visual works, and trafficking in counterfeit computer program documentation or packaging."

### **SEC. 5. TRAFFICKING IN COUNTERFEIT GOODS OR SERVICES.**

Section 2320 of title 18, United States Code, is amended by adding at the end the following:

"(e) Beginning with the first year after the date of enactment of this subsection, the Attorney General shall include in the report of the Attorney General to Congress on the business of the Department of Justice prepared pursuant to section 522 of title 28, an accounting, on a district by district basis, of the following with respect to all actions taken by the Department of Justice that involve trafficking in counterfeit labels for phonorecords, copies of computer programs or computer program documentation or packaging, copies of motion pictures or other audiovisual works (as defined in section 2318 of title 18), criminal infringement of copyrights (as defined in section 2319 of title 18), unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances (as defined in section 2319A of title 18), or trafficking in goods or services bearing counterfeit marks (as defined in section 2320 of title 18):

"(1) The number of open investigations.

"(2) The number of cases referred by the United States Customs Service.

"(3) The number of cases referred by other agencies or sources.

"(4) The number and outcome, including settlements, sentences, recoveries, and penalties, of

all prosecutions brought under sections 2318, 2319, 2319A, and 2320 of title 18."

### **SEC. 6. SEIZURE OF COUNTERFEIT GOODS.**

Section 34(d)(9) of the Act of July 5, 1946 (60 Stat. 427, chapter 540; 15 U.S.C. 1116(d)(9)), is amended by striking the first sentence and inserting the following: "The court shall order that service of a copy of the order under this subsection shall be made by a Federal law enforcement officer (such as a United States marshal or an officer or agent of the United States Customs Service, Secret Service, Federal Bureau of Investigation, or Post Office) or may be made by a State or local law enforcement officer, who, upon making service, shall carry out the seizure under the order."

### **SEC. 7. RECOVERY FOR VIOLATION OF RIGHTS.**

Section 35 of the Act of July 5, 1946 (60 Stat. 427, chapter 540; 15 U.S.C. 1117), is amended by adding at the end the following new subsection:

"(c) In a case involving the use of a counterfeit mark (as defined in section 34(d) (15 U.S.C. 1116(d)) in connection with the sale, offering for sale, or distribution of goods or services, the plaintiff may elect, at any time before final judgment is rendered by the trial court, to recover, instead of actual damages and profits under subsection (a), an award of statutory damages for any such use in connection with the sale, offering for sale, or distribution of goods or services in the amount of—

"(1) not less than \$500 or more than \$100,000 per counterfeit mark per type of goods or services sold, offered for sale, or distributed, as the court considers just; or

"(2) if the court finds that the use of the counterfeit mark was willful, not more than \$1,000,000 per counterfeit mark per type of goods or services sold, offered for sale, or distributed, as the court considers just."

### **SEC. 8. DISPOSITION OF EXCLUDED ARTICLES.**

Section 603(c) of title 17, United States Code, is amended in the second sentence by striking "as the case may be;" and all that follows through the end and inserting "as the case may be."

### **SEC. 9. DISPOSITION OF MERCHANDISE BEARING AMERICAN TRADEMARK.**

Section 526(e) of the Tariff Act of 1930 (19 U.S.C. 1526(e)) is amended—

(1) in the second sentence, by inserting "destroy the merchandise. Alternatively, if the merchandise is not unsafe or a hazard to health, and the Secretary has the consent of the trademark owner, the Secretary may" after "shall, after forfeiture,";

(2) by inserting "or" at the end of paragraph (2);

(3) by striking " ", or" at the end of paragraph (3) and inserting a period; and

(4) by striking paragraph (4).

### **SEC. 10. CIVIL PENALTIES.**

Section 526 of the Tariff Act of 1930 (19 U.S.C. 1526) is amended by adding at the end the following new subsection:

"(f) CIVIL PENALTIES.—(1) Any person who directs, assists financially or otherwise, or aids and abets the importation of merchandise for sale or public distribution that is seized under subsection (e) shall be subject to a civil fine.

"(2) For the first such seizure, the fine shall be not more than the value that the merchandise would have had if it were genuine, according to the manufacturer's suggested retail price, determined under regulations promulgated by the Secretary.

"(3) For the second seizure and thereafter, the fine shall be not more than twice the value that the merchandise would have had if it were genuine, as determined under regulations promulgated by the Secretary.

"(4) The imposition of a fine under this subsection shall be within the discretion of the Customs Service, and shall be in addition to any other civil or criminal penalty or other remedy authorized by law."